IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

Crl.L.P..No. 182 of 2007()

CC.1099/2005 of J.M.F.C.-I,PATHANAMTHITTA

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PETITIONER/COMPLAINANT

JACOB THOMAS MULAMOOTTIL,
KOZHENCHERRY, COMPLAINANT IS REPRESENTED BY HIS
P.A.HOLDER, V.K.ABRAHAM, MANAGER,
MULAMOOTTIL BANKERS, KOZHENCHERRY.

BY ADV. SRI.V.PHILIP MATHEW
SRI.BINU PAUL (NETTOOR)

RESPONDENTS: ACCUSED AND STATE

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1. KUNJUMOL MATHEW,
PUTHENVEETTIL HOUSE, AYYAPPAN KOVIL VILLAGE,
ALADY P.O., KATTAPPANA, IDUKKI

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P.SRI.RAVINDRA BABU FOR R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON 27/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. Thankappan, J.

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Crl.L.P. No. 182 of 2007

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Dated this the 27th day of March, 2007

O R D E R

This is a petition to special leave to appeal filed by the complainant in C.C.No.1099/2005 on the file of the Judicial Magistrate of First Class-II, Pathanamthitta. The complaint was filed by the petitioner against the 1st respondent for offences punishable under section 138 of the Negotiable Instruments Act on the allegation that he had lend Rs.50,000/- to the 1st respondent as a personal loan and for the repayment of the said amount the 1st respondent issued Ext.P1 cheque and when the cheque was presented for encashment, it was dishonoured for insufficiency of funds. To prove the case against the 1st respondent , the complainant himself was examined as PW1 and Exts.P1 to P8 were marked. On the side of the defence, DW1 to DW3 were examined and Exts.D1 to D3 were marked. When the 1st respondent was questioned under section 313 Cr.P.C., he stated that the son of the 1st respondent had a chitty with the petitioner and the said chitty amount was availed by the son of the 1st respondent. He also stated that at the time of availing the chitty amount, the 1st respondent had issued Ext.P1 cheque as security along with some other documents and the said cheque

was misused by the petitioner. Taking into consideration all the facts and circumstances of the case, the trial court found that the prosecution could not establish Ext.P1 cheque was issued by the 1st respondent for the discharge of a debt of Rs.50,000/- towards the petitioner. Having considered the arguments of the learned counsel for the petitioner and after having perused the entire records, this Court is of the view that the findings entered by the court below are on evidence and hence, the impugned judgment requires no interference by this Court. Accordingly, leave to appeal is rejected.

K. Thankappan,
Judge.

mn.

K.Thankappan,J.

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Crl.l.P.No. 135 /2007

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ORDER

2-3-2007